

**United States Department of Labor
Employees' Compensation Appeals Board**

E.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Mercer Island, WA, Employer**

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**Docket No. 08-898
Issued: September 3, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On February 5, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' January 4, 2008 merit decision, finding that she did not sustain an injury as alleged. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the issues in this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty, causally related to factors of her federal employment.

FACTUAL HISTORY

On October 25, 2007 appellant, then a 46-year-old box clerk, filed an occupational disease claim alleging that she experienced numbness, pain and aches in her right hand and fingers while fingering bundles of mail in the performance of duty. She first became aware of the injury and its relation to her work on October 23, 2007. Appellant did not stop work.

By letter dated October 29, 2007, the Office advised appellant that additional factual and medical evidence was needed. It explained that the physician's opinion regarding the cause of her condition was crucial to her claim and allotted appellant 30 days within which to submit the requested information.

The Office received an October 25, 2007 statement from appellant who indicated that she developed pain in her right hand and fingers related to repetitive duties as a box clerk. She indicated that it worsened and that spreading heavy tubs of mail and boxing mail for five hours was painful. On November 20, 2007 appellant described her employment duties over the past 20 years as a box clerk. She noted that her duties included sorting letters and magazines to be placed into 1,348 post office boxes. Appellant denied having any unusual outside activities or hobbies or any previous injuries.

The Office received duty status reports dated October 23, November 2 and December 14, 2007 from an individual whose signature is illegible. The reports diagnosed carpal tunnel syndrome and advised that appellant could return to work with restrictions. It also received nurse's notes dated October 23, 2007 and treatment notes dated October 1 to December 14, 2007 from a physician's assistant and a physical therapist. The Office also received care instructions and an admission form dated October 23, 2007.

By decision dated January 4, 2008, the Office denied appellant's claim. It found that the evidence was sufficient to establish that appellant performed repetitive sorting into boxes. However, the Office found that there was insufficient medical evidence to establish that her claimed condition was due to her work activities.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

The evidence establishes that appellant performed work duties in which she repetitively sorted mail into boxes at work. However, appellant submitted insufficient medical evidence to establish that her claimed condition was caused or aggravated by these repetitive activities or any other factors of her federal employment.

The Office received several duty status reports dated October 23 to December 14, 2007. They listed a diagnosis of carpal tunnel syndrome. However, the reports contained illegible signatures. These reports do not constitute probative medical evidence, in that they lack proper identification.⁵ Moreover, the reports do not provide any explanation as to how particular work activities caused or aggravated appellant's condition.

The Office also received nurse's notes and treatment records from a physician's assistant and a physical therapist. However, health care providers such as nurses, physician's assistants and physical therapists are not physicians as defined under the Act. These reports do not constitute medical evidence and have no weight or probative value.⁶

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁷ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

⁴ *Id.*

⁵ See *Merton J. Sills*, 39 ECAB 572, 575 (1988).

⁶ See *Jane A. White*, 34 ECAB 515, 518-19 (1983). See 5 U.S.C. § 8101(2). This subsection defines the term "physician." See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

There is no reasoned medical opinion evidence explaining how appellant's employment duties caused or aggravated her right hand condition. Appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 4, 2008 is affirmed.

Issued: September 3, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board